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September 26, 1996

Arizona Corporation Commission

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The Honorable Fife Symington
Governor of Arizona
1700 W. Washington
Phoenix, AZ 85007

Dear Governor Symington:

Both of us are properly concerned about the reliability of the electric system and its impacts on human health and safety. However, I don't think we'll benefit the public discourse if we have a rhetorical contest over who loves their mother more. Perhaps we could leave the reliability issue with this observation: immediately after the August 12 outage I convened a meeting of those responsible for electric system reliability and committed to taking the steps necessary to enhance system reliability. Although the meeting was open to all interested parties, including the public, no representatives from the Governor's office participated in this meeting. You have committed to raise the reliability issue at the Western Governor's Conference in a couple of months.

Before, I go through each of your political points, let me get to the merits of the discussion on the importance of timely restructuring to a competitive marketplace.

The Commission has the legal responsibility as outlined in the Constitution to set just and reasonable rates and make just and reasonable classifications, but we can only exercise that authority over the investor-owned and cooperative utilities.

The Legislature exercises authority over the Salt River Project and the municipals. The Commission itself cannot dictate statewide electric competition. That will require Legislative action. So, there is a reason for interaction and cooperation between the Commission and the Legislature. But, each body will, by necessity, have to act independently within their authority to enact the changes required to achieve a competitive marketplace.

You and the utilities would prefer to have restructuring take place in the Governor's office and the Legislature where the utilities influence is the greatest and the regulatory expertise, if it exists at all, is haphazard. The Commission has substantial

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expertise on its staff including accountants, auditors, economists, engineers and lawyers that specifically work on utility-related issues all day, every day, year after year. The Commission expertise has been confirmed by the courts. Since I have been a commissioner there has been only one major case where the courts have required the Commission to give a company (U.S. West) more money. All of the court decisions with respect to disallowance of utility costs or rate of return questions have been decided in the Commission's favor.

If this is a matter of trust, who does the public trust more to take the lead in restructuring? Arizona history is replete with examples of utilities obtaining tax breaks or other beneficial treatment at the hands of the Governor and the Legislature. In the case of the Corporation Commission there clearly have been past abuses and the public has unelected or changed course through the ballot box when it didn't feel its interests were properly represented. This is just as the framers contemplated when they set up the Arizona Corporation Commission as the Fourth Branch of government.

Let me turn now to your gratuitous attack on decisions made by the Commission over the last 12 years.

Your attacks are dishonest, fact-manipulating distortions of the record. What's stunning to me is that a Governor, whose own veracity is under attack in the courts, would make such accusations so easily checked in the public record. As you well know, repetition of falsehoods doesn't make them true.

Despite your best efforts to create a misimpression of the past, I will address your points in sequence.

1. After a decade of Republican control over the Corporation Commission from 1975 to 1984, the kilowatt hour charge (this is the actual number that real people pay) went from 3.8 cents per kilowatt hour to 9.93 cents. An increase of over 150%. And, yes, subsequently this Commission granted some modest increases to Arizona Public Service (APS) due to the building of Palo Verde that had been authorized by previous Commissions. The fact is that after 12 years, consumers are paying less per kilowatt hour now (9.7 cents) than they did when Marcia Weeks and I took office 12 years ago.
2. Tucson Electric Power (TEP) rates were the lowest in the state and stayed low for a long period of time while other utility rates were increasing around the country. The Commission did raise rates to reflect

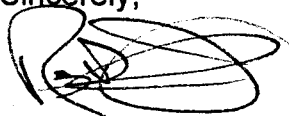
the power plants that were authorized, again by the previous Commission. Contrary to your mis-statement, TEP residential customer rates are still lower than those of APS.

3. TEP nearly went bankrupt because TEP management went out and bought savings and loans whose directors authorized "go-go" loans to people who defaulted on their obligations. Again, it was the previous Republican Commission which allowed TEP management to cut sweetheart deals. It is true that the price of TEP shares went from \$60 to \$1. It was the shareholders, which are responsible for its management, that took the beating, not the customers. Indeed, on a 2 to 1 vote with the two Democrats voting for additional Commissioner-sponsored disallowances, the Republican member of the Commission voted to pass along the above-market costs of the collusive transactions by the TEP insiders to TEP customers. When TEP, under its new talented management, was desperately trying to avoid bankruptcy, you sought to politicize the matter by inserting yourself into it against both the wishes of TEP and the Commission. I must tell you how distasteful I found it to look into the audience during those delicate times and see your political operatives, George Leckie and Annette Alvarez, sitting in the back of the Commission hearing room.
4. You also seem unaware that the Commission acted on the 1986 Tax Reform Act by building into utility rates the lower rate of income taxes on a case by case basis. As you know, the Corporation Commission is not responsible for the collection of property and sales taxes.
5. We have, however, taken strong action in requiring payment of these taxes before granting additional rate increases to those companies that have failed to pay taxes. It may also interest you to know that your own Department of Revenue, which has the legal responsibility and authority to collect sales taxes, has failed to collect sales taxes from utilities that have billed and collected sales taxes from customers. We know of one situation where a water company has failed to remit over \$14,000 over a five year period of time to the Department of Revenue. Ironically, rather than be subject to the penalties contained in the law for such failures, the owner of this company was recently appointed to a Joint Legislative Committee on Small Water Companies.

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Governors and the Legislatures in other states are working with their utility commissions in support of their restructuring activities. The Commission plans to continue in its efforts to effectuate a smooth transition to competition. In that regard, I welcome your input on the important issues like how stranded costs should be recovered, how reliability should be enhanced, and how the Salt River Project should be part of the new competitive order.

Sincerely,

A handwritten signature in black ink, appearing to read 'Renz D. Jennings', with several loops and a horizontal line extending to the right.

RENZ D. JENNINGS
Chairman

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